

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 - - - - -x

JOSIAH GALLOWAY,

5 Plaintiff, 19 CV 5026
(AMD) (JO)

6 -against-

7 NASSAU COUNTY; THE INCORPORATED VILLAGE
8 OF HEMPSTEAD; Police Officer STEVEN
9 HOROWITZ, Shield No. 144; Detective
10 MATTHEW ROSS, Shield No. 834; Detective
11 CHARLES DECARO, Shield No. 1047;
12 Detective RONALD LIPSON, Shield No. 1296;
13 Detective THOMAS D'LUGINSKI, Shield No.
14 7900; Detective GEORGE DARIENZO, Shield
15 No. 1038; Detective KEVIN CUNNINGHAM,
16 Shield No. 112; Detective Sergeant
17 RICHARD DORSI; Detective RENE B. YAO;
18 Detective CARL STRANGE, Shield No. 1225;
19 JOHN and JANE DOE 1-20,

20 Defendants.

21 - - - - -x

22 STATE OF NEW YORK
23 COURT OF CLAIMS

24 - - - - -x

25 JOSIAH GALLOWAY,

Claimant, Claim No.
132020

-against-

THE STATE OF NEW YORK,
Defendant.

- - - - -x

Virtual Zoom
New York, New York
September 11, 2020
10:03 a.m.

VIDEOTAPED VIRTUAL DEPOSITION OF
SHERYL ANANIA.

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2 VIDEOTAPED VIRTUAL DEPOSITION of
3 SHERYL ANANIA, on behalf of NASSAU
4 COUNTY, a Defendant in the above-entitled
5 action, held at the above time and place,
6 taken before Jennifer Brennan, a Notary
7 Public of the State of New York, pursuant
8 to Order.

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2 APPEARANCES:
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4 ELEFTERAKIS, ELEFTERAKIS & PANEK
5 Attorneys for Plaintiff
6 80 Pine Street
7 38th Floor
8 New York, New York 10005

9 BY: GABRIEL P. HARVIS, ESQ.

10 SOKOLOFF STERN, LLP
11 Attorneys for Defendant - Nassau County
12 and Witness
13 179 Westbury Avenue
14 Carle Place, New York 11514

15 BY: BRIAN SOKOLOFF, ESQ.

16 BEE READY FISHBEIN HATTER & DONOVAN
17 Attorneys for Defendants - Village of
18 Hempstead and the Village of Hempstead
19 defendants
20 170 Old Country Road
21 2nd Floor
22 Mineola, New York 11501

23 BY: ANDREW K. PRESTON, ESQ.

24 NEW YORK STATE ATTORNEY GENERAL'S OFFICE
25 Attorneys for Defendant - State of New York
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Suite 230
Hauppauge, New York 11788

BY: ANTONELLA PAPALEO, ESQ.

ALSO PRESENT: ADAM VENTURINI,
VIDEOGRAPHER

* * *

1 S. Anania

2 on the phone with Judge Horenstein

3 and see how he feels about that.

4 Q So Ms. Anania --

5 A Anania.

6 Q I'm sorry, I told you -- so my
7 question to you is, did Jorge Anyosa tell
8 you how he knew that Wilmer Hernandez had
9 identified Josiah Galloway?

10 A I would be guessing. I don't
11 have a recollection of it at this point.

12 Q But you put in your notes, that
13 the officer told him?

14 A I did not put in my notes that
15 the officer told him that Wilmer
16 Hernandez had identified --

17 Q Well, let's look. Well, you
18 wrote here, "After he ID'd the photo in
19 the array, the detective told him he ID'd
20 the right person"; right?

21 A Right, that's what I wrote.

22 Q In your understanding of
23 identification procedures, is that
24 permissible?

25 MR. SOKOLOFF: Objection.

1 S. Anania

2 Don't answer it.

3 MR. HARVIS: Why? What's the
4 basis of that objection?

5 MR. SOKOLOFF: Work product.

6 Q I'm not asking the function
7 of -- I'm just asking whether or not in
8 your view, it is permissible for a
9 detective to tell a crime victim that
10 they identified the right person?

11 MR. SOKOLOFF: When you say,
12 "permissible," you mean legal?

13 MR. HARVIS: Constitutional.

14 MR. SOKOLOFF: She's not here
15 for that, no, I'm objecting to it.
16 It's work product.

17 MR. HARVIS: It's work product
18 whether or not a police officer may
19 tell a crime victim whether or not
20 they identified the --

21 MR. SOKOLOFF: Yes, it's her
22 work product, yes, it is. She's an
23 attorney.

24 MR. HARVIS: So therefore every
25 question posed to her is work

1 S. Anania

2 product.

3 MR. SOKOLOFF: That's
4 ridiculous. She's answered just
5 about every question here. She can
6 answer fact questions, what she did,
7 what she heard, what she said.

8 Q As a matter of fact --

9 MR. HARVIS: And I don't want
10 to have anymore speaking objections
11 or I'm definitely going to call the
12 court. I'm just telling you that --

13 MR. SOKOLOFF: It's not a
14 speaking objection. You asked for
15 the basis of the objection and the
16 instruction not to answer, if you
17 don't want me to explain why, I won't
18 explain it.

19 MR. HARVIS: Okay, I don't want
20 to you explain why.

21 MR. SOKOLOFF: Okay.

22 Q So what I'm asking is a factual
23 question, about whether or not it is
24 proper and constitutional, for a police
25 officer to tell a crime victim, that they

1 S. Anania

2 have identified the right person?

3 MR. HARVIS: And, Brian, you're
4 instructing her not to answer?

5 MR. SOKOLOFF: Yes, sir.

6 MR. HARVIS: We'll mark that
7 for a ruling and we'll finish doing
8 the deposition and we'll call Judge
9 Horenstein and find out if that's a
10 question that needs to be answered.

11 Q Okay. Going back to my initial
12 question, did you -- did you make any
13 official report regarding Anyosa's
14 allegation that he had been told that he
15 picked the right person?

16 A No.

17 Q Did Anyosa tell you how he knew
18 that Wilmer Hernandez had ID'd Josiah
19 Galloway?

20 MR. SOKOLOFF: Objection, asked
21 and answered. You can answer again.

22 A I don't know. I can't
23 remember.

24 Q Okay. But he told you that
25 someone had told him that; right?